

OFFICIAL COPY

Fresno, California

March 1, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Reverend David Finster, First Congregational Church, gave the invocation, and President Dages led the Pledge of Allegiance.

SPCA PET OF THE MONTH - COUNCILMEMBER STERLING

The pet of the month up for adoption, a two month old terrier, was presented and showcased.

PRESENTATION OF FAX DRIVER APPRECIATION AWARDS - PRESIDENT DAGES

Presented.

PROCLAMATIONS FOR FRESNO HIGH SCHOOL ROTC STUDENTS - COUNCILMEMBER BOYAJIAN

Read and presented.

ADD-ON - PROCLAMATION IN SUPPORT OF WTC FAMILIES FOR PROPER BURIAL OF 9-11 LOVED ONES

Read and presented.

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**APPROVE MINUTES:**

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the minutes of February 15, 2005, approved as corrected by Councilmember Westerlund, on Page 145-60, 3<sup>rd</sup> issue, with Councilmember Westerlund clarifying he was just wondering where the issue was or when it might come forth rather than questioning a time frame.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

COMMENDATION TO JESSIE MORRISON FOR HIS EFFORTS IN THE DEMOLITION OF A HOUSE ON THORNE AVENUE - COUNCILMEMBER BOYAJIAN

Commendation made.

ANNOUNCEMENT OF ADD-ON PROCLAMATION TO BE PRESENTED TO LOUISVILLE, KENTUCKY DEPUTY MAYOR JOAN REIHM LATER THIS AFTERNOON - COUNCILMEMBER CALHOUN

Announcement made.

COMMENDATION TO HOME DEPOT, DOWNTOWN ROTARY CLUB AND KABOOM, INC., FOR THE RENOVATION OF THE WESTSIDE BOYS & GIRLS CLUB THIS PAST WEEKEND - COUNCILMEMBER STERLING

Commendation made.

(1) INVITATION TO COUNCIL TO ATTEND THE LEGION OF VALOR FUND RAISING EVENT ON MAY 7<sup>TH</sup>; (2) CONGRATULATIONS TO ANDY SOUZA ON BEING APPOINTED CITY MANAGER; (3) REQUEST FOR STATUS ON THE POTENTIAL CONTRACT WITH FRESNO COUNTY FOR GRAFFITI REMOVAL; AND (4) CONCERN WITH STAFF NOT COMPLYING WITH COUNCIL DIRECTION TO RETURN THIS DATE WITH MARKETING PLANS FOR THE ROEDING BUSINESS PARK AND OTHER AREAS - COUNCLMEMBER WESTERLUND

#1 & 2: Invitation and congratulations extended; # 3: request made with City Manager Souza stating he would report back on the matter, and #4: Economic Development Director Burkhardt and Mr. Souza stated Council's direction was being complied with and a report would be ready next week and responded to Councilmember Westerlund's concerns and questions on why the item was not ready this date as agreed upon.

REQUEST FOR TRANSPORTATION DIRECTOR RUDD TO MEET WITH FRESNO COUNTY BOARD OF SUPERVISORS AND OBTAIN INFORMATION ON THE PROPOSAL FOR FREE CITY-WIDE BUS SERVICE - COUNCILMEMBER DUNCAN

Request made.

(1) WELCOME TO NEW CITY MANAGER SOUZA; (2) INTRODUCTION OF NEW COUNCIL EXECUTIVE ANALYST SUSANNA GOMEZ; (3) REQUEST CITY MANAGER TO DIRECT STAFF TO CHANGE "NO PARKING/BIKE LANE" SIGNS IN FRONT OF SUNNYSIDE HIGH SCHOOL TO ALLOW FOR STUDENT DROP-OFFS AND PICK-UPS AS WAS DONE FOR ROOSEVELT HIGH SCHOOL SO CITATIONS ARE NOT ISSUED; (4) REQUEST CITY MANAGER DIRECT STAFF TO INSTALL 25 MPH SPEED LIMIT SIGNS ON WOODWARD AVENUE BETWEEN CEDAR AND MAPLE AVENUES DUE TO SPEEDERS; AND (5) REQUEST FOR STAFF REPORT ON THE \$10 MILLION IN FUNDING BEING REINSTATED FOR PEACH AVENUE WIDENING - PRESIDENT DAGES

#1 & 2: Welcome extended and introduction made with President Dages stating Ms. Gomez would be working for the entire council and advised what her duties would entail; and #3 (2 - 0), 4 & 5: requests made with City Manager Souza responding.

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#### **APPROVE AGENDA:**

(4:00 P.M. ITEM "C") CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-19, REZONE APPLICATION NO. R-04-62, AND ENVIRONMENTAL FINDINGS, FILED BY BOB AND DEBBIE DULEY, SOUTHEAST CORNER OF N. ARMSTRONG AND E. CLINTON AVENUE. THE PROJECT ALSO INCLUDES THE DETACHMENT OF THE PROPERTY FROM THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION TO THE CITY FOR WHICH LAFCO IS THE RESPONSIBLE AGENCY (PROPERTY LOCATED IN COUNCIL DISTRICT 4)

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-19/R-04-62
2. RESOLUTION - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE McLANE COMMUNITY PLAN
3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-R (FRESNO COUNTY) TO R-1//UGM TO ALLOW FOR THE FUTURE DEVELOPMENT OF THE PROPERTY WITH A 125-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION

City Clerk Klisch advised there were two (2) resolutions (not one) associated with the item with the first being staff's recommendation (to deny) and the second being the applicant's request. So noted.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**ADOPT CONSENT CALENDAR:**

Councilmember Boyajian pulled Items 1-E, 1-F and 1-G, and Councilmember Calhoun pulled Item 1-A for discussion at 2:00 p.m.

**(1-B) RESOLUTION NO. 2005-64** - APPROVING FINAL MAP OF TRACT NO, 5259 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, N. POLK AND E. INDIANAPOLIS AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY STORM DRAINAGE FACILITIES
2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING FOR SPECIAL SOLID WASTE SERVICE
3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

**(1-C) RESOLUTION NO. 2005-65** - APPROVING FINAL MAP OF TRACT NO. 5265 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, EAST SIDE OF N. MAPLE BETWEEN COPPER AND E. INTERNATIONAL AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR MAINTENANCE OF LANDSCAPING AND NON-STANDARD IMPROVEMENTS
2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES
3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

**(1-D) RESOLUTION NO. 2005-66** - APPROVING THE FINAL MAP OF TRACT NO. 5281 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, EAST SIDE OF N. FOWLER AVENUE NORTH OF E. SHIELDS AVENUE

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE
2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR INTERIM SEWER SURETY FEE AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING FOR SPECIAL SOLID WASTE SERVICE
3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

**(1-H) BILL NO. B-12 - ORDINANCE NO. 2006-14** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO CITY ADMINISTRATIVE HEARING PROCEDURES, SELECTION OF HEARING OFFICERS, AND THE COST AND PENALTY RECOVERY ORDINANCE AND ADMINISTRATIVE CITATION PROCEDURES

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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145-78

3/1/05

**(9:10 A.M.) PUBLIC COMMENT PERIOD:**

**(A) SCHEDULED COMMUNICATION:** APPEARANCE BY ROSELYN CLARK TO DISCUSS AND PROVIDE AN UPDATE ON THE MAINTENANCE OF NEIGHBORHOOD WATCH SIGNS IN NORTHWEST FRESNO AND WHAT COUNCIL CAN DO TO ASSIST WITH THE PROCESS

Ms. Clark gave an update and asked Council members to assist with the replacement of signs as some have done in the past. Councilmembers Boyajian, Sterling and Westerlund spoke to the importance of the signs and committed to assisting, and City Manager Souza thanked Ms. Clark on behalf of Council and the Mayor for her personal investment and stated he would work with staff to engage in the process.

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**(9:15 A.M.) WORKSHOP ON POTENTIAL LOSS OF FRESNO AREA MILITARY BASES AS A RESULT OF THE BASE REALIGNMENT AND CLOSING COMMISSION (BRACC) PROCESS - COUNCILMEMBER WESTERLUND**

**1. RESOLUTION NO. 2005-67** - A JOINT RESOLUTION OF THE MAYOR AND CITY COUNCIL SUPPORTING THE RETENTION OF THE 144<sup>TH</sup> FIGHTER WING, THE 1106<sup>TH</sup> AVIATION CLASSIFICATION REPAIR ACTIVITY DEPOT, THE U.S. MARINE CORPS BASE, THE 185<sup>TH</sup> QUARTER MASTER UNIT, THE 40<sup>TH</sup> AVIATION BRIGADE, AND ASSOCIATED UNITS AND FACILITIES IN THE CITY AND COUNTY OF FRESNO

**2. RESOLUTION NO. 2005-68** - 64<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$30,000 TO PROVIDE FUNDING FOR CONSULTING SERVICES TO SAVE THE MILITARY BASES

Councilmember Westerlund gave an extensive overview of the issue, all as contained in his report to Council as submitted, advised staff had some funding options for the consultant services, and urged Council's support.

Dave Spaur, Economic Development Corp., spoke in support and to related issues.

A motion and second to adopt the two resolutions was acted upon after brief discussion with Councilmember Westerlund and City Manager Souza responding to questions and comments of Councilmembers Duncan and Boyajian and/or clarifying issues relative to reason for hiring a consultant, this being an economic development issue and need to use funds budgeted for economic development efforts, the funding source being recommended by staff, process for hiring a consultant, request for Councilmember Westerlund to be on the task force due to his military background, and the city of Fresno being pro-active in this matter and committed.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-67 and 2005-68 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**(9:45 A.M.) CONSIDER NOMINATION OF CHANDLER FIELD/AIRPORT TO THE LOCAL REGISTER OF HISTORIC RESOURCES**

**1. RESOLUTION NO. 2005 -69** - DESIGNATING CHANDLER FIELD/CHANDLER DOWNTOWN AIRPORT, LOCATED AT 510 W KEARNEY BOULEVARD, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

Historic Preservation Project Manager Hattersley-Drayton gave a detailed PowerPoint presentation/overview of issue and the current administration building restoration project, all as included in the staff report as submitted (**3 - 0**), and recommended approval.

Speaking in support of staff's recommendation were: Scott Vincent, Project Architect, 1500 W. Shaw, and Mabelle Selland, Heritage Fresno, 1483 E. Portals.

Councilmember Sterling spoke further to the project and expressed her support, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

**145-79****3/1/05**

Lengthy discussion ensued with Ms. Hattersley-Drayton, Mr. Vincent, Aviation Director Widmar, City Manager Souza, Deputy City Attorney Phelan and public works Support Services Aide Millis responding to questions/comments of Councilmembers Duncan, Calhoun, Westerlund and Boyajian relative to reason for the designation issue being before Council, project funding source and if no general fund dollars would be used, what else the designation would do besides allow for building restoration, difference between having a district versus individual buildings, if there was anything to preclude Council from breaking the campus apart and vote on individual buildings separately, if the electrical building was still functioning, what grant funds were targeted for when first received, if there was a possibility of obtaining other grants, the tremendous resources of Kearney Park and Running Horse and if there were plans/possibility of improving Kearney Boulevard (with landscaping, bike/pedestrian paths/lanes), and need for a vision for the entire area.

On motion of Councilmember Sterling, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2005-69 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 79, FINAL TRACT MAP NO. 5321**

- 1. RESOLUTION NO. 2005-70 - DIRECTING PREPARATION OF A MODIFIED ENGINEER'S REPORT ANALYZING THE IMPACT OF THE PROPOSED INCREASE IN THE SPECIAL TAX AND MODIFYING R.I. 05-22**
- 2. RESOLUTION NO. 2005-71 - RECEIVING THE MODIFIED ENGINEER'S REPORT AND R.I. 05-22**
- 3. RESOLUTION NO. 2005-72 - ANNEXING TERRITORY**
- 4. RESOLUTION NO. 2005-73 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 5. RESOLUTION NOS. 2005-74 - DECLARING ELECTION RESULTS**
- 6. BILL NO. B-13 - ORDINANCE NO. 2005-15 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS**

President Dages announced the time had arrived to consider the issue and opened the hearing.

Assistant Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Upon question of Councilmember Calhoun, Mr. Kirn stated this assessment was lower than others due to the minimal level of landscaping and maintenance that will be required. Councilmember Calhoun stated his concern was, and continued to be, Council had not yet seen public works' formal evaluation of CFDs and LLMDs and stated he would not be approving any more of these until discussion is held and he sees staff's recommendations. Upon question of Councilmember Duncan, Mr. Kirn advised of the consequences should this matter not be approved.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-70, 2005-71, 2005-72, 2005-73 and 2005-74 hereby adopted, and the above entitled Bill No. B-13 adopted as Ordinance No. 2005-15, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : Calhoun  
 Absent : None

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**(10:05 A.M.) HEARING TO CONSIDER A RESOLUTION OF PUBLIC USE AND NECESSITY FOR ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FOR PUBLIC STREET PURPOSES FROM PROPERTY LOCATED ON W. SHAW AVENUE AT THE INTERSECTION OF N. FIRST STREET - APN 327-310-01 OWNED BY EQUILON ENTERPRISES, LLC, AND APNs 418-091-19 & 22 OWNED BY FRIIS-HANSEN & CO., A LIMITED PARTNERSHIP (DISTRICT 4)**

145-80

3/1/05

**1. RESOLUTION NO. 2005-75 - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FOR PUBLIC PURPOSES OVER, UNDER, THROUGH AND ACROSS REAL PROPERTIES FOR THE CONSTRUCTION OF THE SHAW AND FIRST INTERSECTION PROJECT AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE**

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Real Estate Agent Hansen reviewed the issue and advised of the findings to be made, all as contained in the staff report as submitted.

Upon call, no one wished to be heard and President Dages closed the hearing.

Councilmember Westerlund spoke briefly to the issue and in support of the project stating it made sense to mitigate congestion at the intersection, and requested staff work as closely as possible with property owners to come to an amicable resolution prior to the actual eminent domain.

On motion of Councilmember Duncan, seconded by President Dages, duly carried, RESOLVED, the above entitled Resolution No. 2005-75 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**(3-A) REQUEST STAFF TO RESEARCH THE FEASIBILITY OF VARIOUS TECHNOLOGY AND ORGANIZATIONAL MODELS FOR WIRELESS INTERNET ACCESS VIA WiFi IN THE CITY - COUNCILMEMBER CALHOUN**

Councilmember Calhoun spoke to the importance of all residents and businesses having access to the internet due to the number of good issues in the community, the changing technology, what other cities/countries were doing, and what city and the Central California Broadband (CCB) were looking at for the city; **(4 - 0)** and noted staff stated the city was not committed to doing anything at this stage, he was interested in requesting staff research various technology, and requested council input on the matter.

Chief Information Officer Hendricks gave a brief update on the number of things the department of information services was currently doing and looking at. Councilmember Duncan stated this was a fabulous topic and advised he would present an item next week on city policies related to the CCB; spoke to wireless technology, WiFi including challenges and cost, the benefit of WiMax, being careful about not getting the city trapped in an outdated technology, and the big policy issue of a government-owned wireless system; stated staff was on a good track at this time and additional dialog would occur next week and he would be submitting a lot of information; and acknowledged Council wanted Fresno to be a leader in technology but stated it had to be done in a common-sense and logical manner and explained and offered his assistance stating this was a topic of great interest to him. Councilmember Westerlund added there were public efforts to move forward on this and advised people could go to Yahoo.com and click on "hot spots" to hook up, and stated he would look to the WiMax technology as he felt that was a better way to go according to his understanding. City Manager Souza stated the city's position/direction was to get WiFi spots in areas the city could control and added he looked forward to networking with the public and private sector on other opportunities. Councilmember Calhoun stated he appreciated the feedback and would not make a motion, and concurred everyone wanted to do what they reasonably could however possible and it was his hope the city would not be too conservative adding he was not sure wiring the council chamber and the airport would have an impact on economic development for the city. There was no further discussion.

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**RECESS - 11:09 A.M. - 11:25 A.M.**

President Dages announced the annual Council photographs would be taken at 12:00 noon in the foyer.

**(11:00 A.M.) BILL NO. B-14 - REPEALING, ADDING AND AMENDING THE FRESNO MUNICIPAL CODE RELATING TO STREET TREES AND PARKWAYS AND COST AND PENALTY RECOVERY**

145-81

3/1/05

President Dages reviewed the issue stating he brought this forth due to the numerous problems homeowners have had to deal with, specifically the elderly who are no longer able to maintain their trees or afford bills relative to sewer problems, elaborated on the problems, damages and lawsuits caused by trees, and spoke in support of this ordinance and specifically the ultimate appeal to Council provision and made a motion to introduce the ordinance bill, which was seconded and later acted upon.

Speaking to the issue were Public Works Director Healey who recommended approval stating the ordinance would allow for the flexibility to solve a lot of the problems and explained, and John Valentino, Tree Fresno, who stated this ordinance was on the right track and his only concern and disagreement was with the ultimate appeal to Council stating staff evaluation was needed.

Lengthy discussion ensued. Councilmember Duncan expressed his support stating the ordinance would address the important issues of proper management of urban forest and public safety and explained, and stated he supported Council involvement in the appeal process and added those instances would be rare. Mr. Healey, City Attorney Montoy and Mr. Valentino responded to questions and/or comments of Councilmembers Perea, Boyajian and Sterling relative to the ordinance dealing with nuisance trees on public property and how private property nuisance trees would be dealt with, the appeal process, spraying trees versus removal and cost for spraying, need for private property trees to be included in the ordinance (with Ms. Montoy recommending the ordinance be introduced and staff would bring an amended ordinance back relative to definition and nuisance tree impacts on private property), nails in trees/damages and fines, need to impose fines (with Ms. Montoy stating an amendment relative to fines could also come back), funds budgeted for this ordinance, if every request for tree removal would be met **(5 - 0)**, concern with moving forward with the ordinance and there being a lack of funds to address problems, and support for the Council appeal provision as council members are constituents' caretakers and receive complaint calls first.

City Manager Souza thanked the city attorney's office for their work on the ordinance, stated the problem was a 20+ year old ordinance and it was time to re-think matters as things were different today, and stated he supported the ordinance and would work with the city attorney as this was a serious issue.

Councilmember Calhoun spoke to the issue at length including his experience living in other communities wherein property owners are responsible for costs associated with their trees problems, and expressed his concern and questioned why the city had to shoulder all the burden, why council had to micro-manage neighbors' yards, number of appeal calls anticipated, and the funding source and who would pay, with Mr. Healey, Mr. Souza and Ms. Montoy responding throughout and relative to removal cost clarified if the city initiates a tree removal the city would pay and if the property owner initiates it the property owner or council infrastructure budget would pay. Councilmember Calhoun stated decisions belonged at the staff level and stressed Council should not be involved, stated the message was "if you don't like staff come to us (Council)", and urged the council appeal provision be removed and let the process work and added the appeal provision could be added back later if necessary. Councilmember Westerlund questioned whether any other jurisdictions had a Council appeal provision, stated he shared the same concerns as Councilmember Calhoun relative to micro-managing as Council was a policy board, and questioned if there were any legal ramifications of council being the final decision-maker, with Mr. Healey and Ms. Montoy responding. At this point President Dages interrupted the proceedings, stated he did not know this matter would take this much time and advised Council photos were scheduled to be taken and some council members had luncheon engagements, and with council consensus President Dages called for a lunch recess and advised the matter would be taken up at 2:00 p.m.

#### **LUNCH RECESS - 12:17 P.M. - 2:11 P.M.**

#### **(11:00 A.M.) ORDINANCE BILL RELATING TO STREET TREES AND PARKWAYS AND COST AND PENALTY RECOVERY (CONTINUED FROM EARLIER)**

Proceedings continued with Councilmembers Westerlund, Boyajian and Duncan questioning the appeal process, what will happen if the city wants to remove a tree(s) and the property owner(s) does not, if a pay schedule partnering with the city could be developed or a shared cost option, and areas with large amounts of trees (like University Portals) and possibility of establishing a benefit assessment district for neighborhoods to have their trees maintained, with Assistant Public Works Director for Streets Dilley, Ms. Montoy and Mr. Healey responding.

On motion of President Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Bill No. B-14 introduced before the Council as amended, and laid over, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Dages

Noes : Calhoun, Westerlund  
 Absent : None

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145-82

3/1/05

**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR ITEMS:**

**(1-A) RESOLUTION NO. 2005-76** - INTENT TO ANNEX FINAL TRACT NO. 5284 TO CFD NO. 2, ANNEXATION NO. 90, AND SETTING THE PUBLIC HEARING FOR APRIL 5, 2005, AT 10:00 A.M.

As stated during the 10:00 a.m. CFD No. 2 hearing, Councilmember Calhoun reiterated his concern was he had not yet seen public works' formal evaluation of CFDs and LLMDs problems and he would not be voting in support.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-76 hereby adopted, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : Calhoun  
 Absent : None

**(1-E) CONSIDER THE PROPOSED ALLUVIAL-CHESTNUT NO. 1 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF CERTAIN TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO (PROPERTY LOCATED IN DISTRICT 6)**

**1. AFFIRM COUNCIL ACTION OF AUGUST 31, 2005, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. A-03-19/R-03-80/C-03-262 DATED 6/15/04, RESULTING IN A MITIGATED NEGATIVE DECLARATION**

**2. RESOLUTION NO. 2005 -77** - APPLYING TO THE LAFCO IN THE MATTER OF THE PROPOSED ALLUVIAL-CHESTNUT NO. 1 REORGANIZATION

**-and-**

**(1-F) CONSIDER THE PROPOSED SHIELDS-LOCAN NO. 4C REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF CERTAIN TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO (PROPERTY LOCATED IN DISTRICT 4)**

**1. AFFIRMING COUNCIL ACTION OF 9/21/04, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-04-27/T-5312 DATED 7/13/04, RESULTING IN A FINDING OF CONFORMITY**

**2. RESOLUTION NO. 2005-78** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED SHIELDS-LOCAN NO. 4C REORGANIZATION

**-and-**

**(1-G) CONSIDER THE PROPOSED ALLUVIAL-CHESTNUT NO. 1D REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR THE DETACHMENT OF CERTAIN TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO (PROPERTY LOCATED IN DISTRICT 6)**

**1. AFFIRMING COUNCIL ACTION OF 11/9/04, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-04-38/C-04-105 DATED 9/3/04, RESULTING IN A FINDING OF CONFORMITY**

**2. RESOLUTION NO. 2005-79** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED ALLUVIAL-CHESTNUT NO. 1D REORGANIZATION

Speaking to all three items Councilmember Boyajian stated he had not seen this done before and questioned what was at issue/what was being done, if these areas were in the county, if development was planned to go in, and if all the projects had been approved by Council, with an unidentified Planning & Development staff member responding.

**(1-E)** On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-77 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None



(1-F) On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-78 hereby adopted, by the following vote:

**145-83**

**3/1/05**

Ayes : Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : Boyajian  
 Absent : None

(1-G) On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-79 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**(3-B) DISCUSSION AND DIRECTION ON PUBLIC ART IN FRONT OF PUBLIC BUILDINGS, SPECIFICALLY IN FRONT OF FIRE STATION NO. 15 IN THE SUNNYSIDE DISTRICT - PRESIDENT DAGES**

President Dages advised he received an email from the Sunnyside Property Owners Association (SPOA) and heard comments relative to who would have received the RFP, artists Margaret Hudson and Chris Sorenson not having an opportunity to bid on the project, fire station construction being disrupted if the art process selection is disrupted, and problems/controversy occurring among the Fresno Arts Council (FAC) who is to approve the art, and requested the art process be delayed and staff revisit the way selection of art/definition of art is structured.

Deputy Fire Chief in Operations Aranaz responded and spoke to the background, the process that was undertaken, who was notified of the RFP, proposals received and finalists, and the SPOA not being happy with either of the two final proposals; advised he reviewed the art piece that was selected and described it; stated he did not believe it was necessary to start the process over as staff did their due diligence (**6 - 0**) and there would not be a consensus on the artwork as art speaks differently to different people; and recommended the process move forward and added stations 16 and 19 were being designed at this time and there would be more public art there.

Lengthy discussion ensued with President Dages and Councilmembers Duncan and Boyajian presenting questions and/or comments relative to the meetings that were held with the FAC and if they were open to the public, President Dages expressing concern that he was not invited to any of the meetings, need to resolve the problems, private meetings being held without involving the public being wrong for public buildings, willingness to give direction to staff to revamp the process relative to who makes the decision other than the FAC if they can not get along, the new fire station at Maple and International and if any art decision had been made there, Councilmember Duncan proposing a process wherein the FAC narrows down the art options to 3, 4 or 5, a public meeting is held, and the neighborhood/people who live near and have to look at the fire station every day and are paying for it makes the decision (as was done for the sound wall on Friant Road due to concerns with what it would look like), what the intent was of the city's public art policy, who was to make the final decision, if staff looked at the policy and looked to see if it was followed, where staff got the process that was used since this project started before the council-adopted policy, and who made the ultimate decision, with Chief Aranaz, Councilmember Perea and Chief Assistant City Attorney Sanchez responding.

City Manager Souza clarified a general process was in place, it was used, and it was fair; confirmed the construction time line would not be impacted if there are no art pieces; and recommended he be allowed to work with the city attorney to discuss this and look further at the issues. By Council consensus the matter was laid over two weeks to March 15<sup>th</sup>.

Linda Zachrist, FAC Board Member, acknowledged there was disagreement but she was not aware people were not getting along, advised the process went very much like Councilmember Duncan suggested, and spoke to meetings, the process that was undertaken, who was included in meetings, the SPOA deciding not to vote in the art choice, and who the RFPs went out to, and concluded stating the process was open and functioned very well, it was in line with the city adopted arts policy, and stated the FAC wanted to continue working with the process and on the future fire stations.

President Dages stated the southeast Fresno people were more than just the SPOA, and Councilmember Calhoun added this was not a southeast, northeast or certain council member issue but was a city-wide issue as public art did not belong to a certain council district

or home owners' association or neighborhoods. There was no further discussion.

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145-84

3/1/05

**(2:00 P.M. #2) CLOSED SESSION:**

**(A)** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: CITY OF CERRITOS V. STATE BOARD OF EQUALIZATION, ALAMEDA SUPERIOR COURT CASE NO. RG04144275

**(B)** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: COF V. U.S. ARMY CORPS OF ENGINEERS AND THE BOEING COMPANY, INC.

The City Council met in closed session in Room 2115 at the hour of 3:05 p.m. to consider the above matters and reconvened in regular open session at 3:51 p.m.

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**ADD-ON PROCLAMATION OF LOUISVILLE METRO GOVERNMENT DAY - COUNCILMEMBER CALHOUN**

Councilmember Calhoun advised the people of Louisville, Kentucky recently approved a merger of their city and county and elaborated on the issue, and presented a Proclamation to Deputy Mayor Joan Riehm.

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**(4:00 P.M.) TRIMESTER PLAN AMENDMENT HEARINGS**

Planning & Development Director Yovino gave a brief overview of the plan amendments, and relative to Item C advised a continuance was going to be requested by the applicant and also noted there was disagreement between the staff/planning commission recommendation and the applicant. It was determined to hear Item C and address the continuance.

**C.** CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-19, REZONE APPLICATION NO. R-04-62,, FILED BY BOB AND DEBBIE DULEY, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N. ARMSTRONG AND E. CLINTON AVENUE.

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-19/R-04-62
2. RESOLUTION - DENYING PLAN AMENDMENT APPLICATION NO. A-04-19 PROPOSING TO AMEND THE 2025 FRESNO GENERAL PLAN AND THE MCLANE COMMUNITY PLAN (STAFF AND PLANNING COMMISSION RECOMMENDATION)
3. RESOLUTION - APPROVING P.A. A-04-19 AMENDING THE 2025 FRESNO GENERAL PLAN AND MCLANE COMMUNITY PLAN (APPLICANT'S REQUEST)
4. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-R (FRESNO COUNTY) TO R-1//UGM

Ken Crabtree, representing the applicant, requested a 30 day continuance and explained the reasons therefor. A motion and second was made to approve the continuance **(7 - 0)**.

Speaking in opposition to a continuance were: Michael Timkin, 4168 N. Armstrong; Sharon Harrelson, 2216 N. Armstrong; and Juanita Jacinto, 6588 E. Clinton.

Mr. Yovino and Mr. Crabtree responded to questions of Councilmembers Duncan and Westerlund relative to whether staff would have to go back and re-look at the general plan if the potential annexations are denied by LAFCO, Councilmember Duncan stating his opposition to a delay, and what other issues, besides the LAFCO meeting, were reasons for wanting a delay.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to continue Item C for thirty (30) days failed, by the following vote:

Ayes : Boyajian, Calhoun, Sterling  
 Noes : Duncan, Perea, Westerlund, Dages  
 Absent : None

Mr. Yovino recommended Council consider Items A, B, D, E and F before continuing with Item C as those items were expected to move fairly quickly.

145-85

3/1/05

**A. CONSIDER PLAN AMENDMENT NO. A-04-11, REZONE APPLICATION NO. R-04-36, AND ENVIRONMENTAL FINDINGS, FILED BY DALE MELL AND ASSOCIATES ON BEHALF OF THE SIKH ASSOCIATION, PROPERTY LOCATED ON THE NORTH AND SOUTH SIDES OF THE W. ACACIA AVENUE ALIGNMENT BETWEEN N. PARKWAY DRIVE AND N. BARCUS AVENUE IN COUNCIL DISTRICT 2**

**1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-11/R-04-36/C-04-96**

**2. RESOLUTION NO. 2005-80 - AMENDING THE 2025 FRESNO GENERAL PLAN, WEST AREA COMMUNITY PLAN, AND THE HIGHWAY CITY NEIGHBORHOOD SPECIFIC PLAN, AND REMOVING THE PLAN LINE FOR ACACIA AVENUE, A LOCAL STREET, BETWEEN PARKWAY DRIVE AND N. POLK AVENUE**

**3. BILL NO. B-15 - ORDINANCE NO. 2005-16 - AMENDING THE HIGHWAY CITY NEIGHBORHOOD SPECIFIC PLAN, AND REMOVING THE PLAN LINE FOR ACACIA AVENUE, A LOCAL STREET, BETWEEN PARKWAY DRIVE AND N. POLK AVENUE**

**4. BILL NO. B-16 - ORDINANCE NO. 2005-17 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A TO C-P FOR 10.2 ACRES AND M - 1 FOR 0.38 ACRES**

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Sanchez gave a PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended approval.

Harry Gil spoke in support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Calhoun spoke briefly to the issue and in support of the project stating it would do a lot to beautify the area and made a motion to approve staff's recommendation.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the environmental finding of Mitigated Negative Declaration for E.A. No. A-04-11/R-04/36/C-04-96, dated January 19, 2005, hereby approved; the above entitled Resolution No. 2005-80 hereby adopted; and the above entitled Bill Nos. B-15 and B-16 adopted as Ordinance Nos. 2005-16 and 2005-17, respectively, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

**B. CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-18 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO AND GRETCHEN FREEDMAN, PROPERTY LOCATED ON THE WEST SIDE OF N. WISHON BETWEEN E. MICHIGAN AND E. BROWN AVENUES IN COUNCIL DISTRICT 1**

**1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-18/R-04-58/V-04-18**

**2. RESOLUTION NO. 2005-81 - AMENDING THE 2025 FRESNO GENERAL PLAN, FRESNO HIGH-ROEDING COMMUNITY PLAN, AND THE TOWER DISTRICT SPECIFIC PLAN**

**3. BILL NO. B-17 - ORDINANCE NO. 2005-18 - AMENDING THE TOWER DISTRICT SPECIFIC PLAN**

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Pagoulatos gave a PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended approval.

Upon call, no one wished to be heard and President Dages closed the hearing.

Ms. Pagoulatos responded to questions of Councilmember Boyajian relative to whether the existing building would be demolished, what the plans were, and if there were plans for the adjacent empty lot.

On motion of Councilmember Boyajian, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Mitigated Negative Declaration prepared for E.A. No. A-04-18/R-04-58/V-04-18, dated January 19, 2005 hereby approved; the above entitled Resolution No. 2005-81 hereby adopted; and the above entitled Bill No. B-17 adopted as Ordinance No. 2005-18, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

145-86

3/1/05

**D.** CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-20, REZONE APPLICATION NO. R-04-66, AND ENVIRONMENTAL FINDINGS, FILED BY STERGEOS DEMETREOS, AGENT, ON BEHALF OF RACHEL BENITEZ AND ANA M. CORTEZ, OWNERS, PROPERTY LOCATED ON THE SOUTH SIDE OF W. DAKOTA BETWEEN N. WEST AND N. MARKS AVENUES IN COUNCIL DISTRICT 1

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-20/R-04-66/C-04-295

2. **RESOLUTION NO. 2005-82** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE FRESNO HIGH-ROEDING COMMUNITY PLAN

3. **BILL NO. B-18 - ORDINANCE NO. 2005-19** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A TO R-2

President Dages announced the time had arrived to consider the issue and opened the hearing. An unidentified staff planner gave a PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended approval.

Applicant representative Stergeos Demetreos spoke briefly to the project and requested approval.

Upon all, no one else wished to be heard and President Dages closed the hearing.

Councilmember Boyajian noted the area was blighted and spoke in support stating this was a good project and commended the developer.

On motion of Councilmember Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for E.A. No. A-04-20/R-04-66/S-04-295 dated January 19, 2005, hereby approved; the above entitled Resolution No. 2005-82 hereby adopted; and the above entitled Bill No. B-18 rezoning the subject property adopted as Ordinance No. 2005-19, subject to the condition that development shall not exceed a residential density of ten (10) dwelling units an acre, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

**E.** CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-24, REZONE APPLICATION NO. R-04-80, AND ENVIRONMENTAL FINDINGS, FILED BY RIVERPARK BIBLE CHURCH OF FRESNO, PROPERTY LOCATED ON THE SOUTH SIDE OF E. ALLUVIAL BETWEEN N. SPALDING AND N. MILLBROOK AVENUES IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-24/R-04-80

2. **RESOLUTION NO. 2005-83** - AMENDING THE 2025 FRESNO GENERAL PLAN AND WOODWARD PARK COMMUNITY PLAN

3. **BILL NO. B-19 - ORDINANCE NO. 2005-20** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1/UGM TO C-P/UGM TO ALLOW FOR AN EXISTING RESIDENCE TO BE USED FOR CHURCH-RELATED CLASSROOMS AND MEETING ROOMS AND ADJOINING PROPERTY FOR OVERFLOW PARKING FROM THE CHURCH SITE PROPER

President Dages announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh gave a PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended approval.

Stan Harbor, 375 Woodward Avenue, Clovis, representing the Church, stated he concurred with staff's recommendation and requested approval.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for E.A. No. A-04-24/R-04-80 dated January 19, 2005, hereby approved; the above entitled Resolution No. 2005-83 hereby adopted; and the above entitled Bill No. B-19 adopted as Ordinance No. 2005-20, subject to the condition that development of the property shall be required to either construct improvements to the existing pipeline system or implement alternative permanent peak reducing facility improvements, as approved the Fresno Metropolitan Flood Control District, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

**145-87**

**3/1/05**

**F. CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-26, REZONE APPLICATION NO. R-04-84, AND ENVIRONMENTAL FINDINGS FILED BY JOHN ALLEN AND WCM LAND, PROPERTY LOCATED ON THE EASTERLY SIDE OF N. FIGARDEN DRIVE SOUTH OF W. BULLARD**

**1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-26/R-04-84/T-5433/C-04-272**

**2. RESOLUTION NO. 2005-84 - AMENDING THE 2025 FRESNO GENERAL PLAN AND BULLARD COMMUNITY PLAN, AND DELETING GATES AVENUE BETWEEN N. FIGARDEN DRIVE AND W. BULLARD AND A PORTION OF W. BULLARD BETWEEN N. BRUNSWICK AND N. BULLETIN AVENUE FROM THE CIRCULATION ELEMENT OF THE 2025 FRESNO GENERAL PLAN AND REPEAL THE OPLs FOR THESE STREETS**

**3. BILL NO. B-20 - ORDINANCE NO. 2005-21 - AMENDING THE OFFICIAL ZONE MAP TO REZONE 22 ACRES FROM R-A/UGM AND C-2/BA-20/UGM/CZ TO R-2/UGM, AND REZONE 34 ACRES FROM R-A/UGM TO C-2/BA-20/UGM, WITHOUT THE CALTRANS ASSESSMENT CONDITION**

President Dages announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh gave a PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended approval along with a condition of zoning that the developer shall pay a State Highway Facilities (Caltrans) fee as outlined in the handout just submitted.

Dirk Poeschel, on behalf of the applicants and the adjoining property owner, spoke further to the project and expressed his disappointment with the Caltrans assessment condition **(8 - 0)** stating he was just recently informed of it and felt it was unfair and not appropriate to impose and explained.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Calhoun stated he was shocked to learn of the fee condition and was very troubled with it, stressed this was a mixed-used project which was the type of project the city wanted done, and questioned how this fee condition came about, when it was decided, why it was not imposed on the earlier Sikh Association project (Item A) just approved, how this condition affected the developer and where it left them, and if this project could be moved for approval without the condition, with Chief Assistant City Attorney Sanchez and Mr. Poeschel responding. A motion and second was made to approve staff's recommendation *without the Caltrans assessment condition*.

Councilmember Boyajian thanked the city attorney and staff on the fee condition and elaborated on project's impacts, lack of studies, and how developers should pay for impacts and not the people, and again thanked staff stating they were doing the right thing.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for E.A. No. A-04-26/R-04-84/C-04-272/T-5433 dated January 19, 2005, hereby approved, the above entitled Resolution No. 2005-84 hereby adopted, and the above entitled Bill No. B-20 adopted as Ordinance No. 2005-21, *without the Caltrans assessment condition*, by the following vote:

Ayes :	Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Boyajian
Absent :	None

**RECESS - 5:16 P.M. - 5:30 P.M.**

C. CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-19, REZONE APPLICATION NO. R-04-62, AND ENVIRONMENTAL FINDINGS, FILED BY BOB AND DEBBIE DULEY, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF N. ARMSTRONG AND E. CLINTON AVENUE. THE PROJECT ALSO INCLUDES THE DETACHMENT OF THE PROPERTY FROM THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION TO THE CITY FOR WHICH LAFCO IS THE RESPONSIBLE AGENCY (PROPERTY LOCATED IN COUNCIL DISTRICT 4)

1. CONSIDER ADOPTING MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-19/R-04-62

2. **RESOLUTION NO. 2005-85** - DENYING PLAN AMENDMENT APPLICATION NO. A-04-19 PROPOSING TO AMEND THE 2025 FRESNO GENERAL PLAN AND THE MCLANE COMMUNITY PLAN (*Staff and Planning Commission recommendation*)

3. **RESOLUTION** - APPROVING P.A. A-04-19 AMENDING THE 2025 FRESNO GENERAL PLAN AND MCLANE COMMUNITY PLAN (*Applicant's request*) - (NOT ADOPTED)

3. **BILL** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-R (FRESNO COUNTY) TO R-1//UGM TO ALLOW FOR THE FUTURE DEVELOPMENT OF THE PROPERTY WITH A 125-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION - (NOT ADOPTED)

145-88

3/1/05

President Dages announced the time had arrived to consider the issue and reopened the hearing and advised a motion made earlier to continue the matter 30 days as requested by the applicant failed.

Planning Manager Haro gave a lengthy PowerPoint presentation of the issue, all as contained in the staff report as submitted, and recommended the plan amendment and rezone be denied.

Speaking in opposition to the project and in support of staff's recommendation were: Michael Timkin, 4168 N. Armstrong; Sharon Harrelson, 2216 N. Armstrong; Tim Fulton, 6773 E. Clinton; Curt Blank, 6635 E. Floradora; Carl Smith, 6158 E. Floradora; and Rita Nitschke, 6737 E. Clinton.

Ken Crabtree, representing the applicants, stated a bad, political decision was made when the zone designation was lowered from medium density to low density, spoke to the project and requested Council support it based on the best interest of the city, fact, the general plan, and the Landscape of Choice and explained, and displayed a map of the project and area with red and blue dots that indicated where people were in support of the project and where there was opposition.

**(9 - 0)** Juanita Jacinto, 6588 E. Clinton, and Alice Timkin, 2168 N. Armstrong, addressed some of Mr. Crabtree's comments and the map and spoke in opposition to the project.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Westerlund stated he could not speak to the old general plan and he had to look at the 2025 general plan as a social contract, noted the case was made early on for low density, and stated it was important to comply with the general plan and made a motion to approve staff's recommendation to deny, which motion was seconded and later acted upon.

Discussion ensued. Councilmember Boyajian stating he would support the motion due to the impacts and lack of CEQA and traffic studies to determine impacts. Councilmember Calhoun stated although he voted for the general plan he made a mistake as he missed this low density designation and questioned how he missed it, if this was discussed at planning commission hearings, and if the subject proposal fit the Landscape of Choice; stated he should have and would have argued against this at the council hearings; and along with President Dages presented additional questions relative to Fresno County's wishes to protect the lower density areas, if approval of this project would put council in a position to approve others, what the options were for the developer if this is denied, and if a compromise could be made for 3 units per acre, with Mr. Haro, Planning & Development Director Yovino and City Attorney Montoy responding throughout.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the environmental finding of a mitigated negative declaration for E.A. No. A-04-19/R-04-62 dated January 19, 2005, considered; the above entitled Resolution No. 2005-85 denying Plan Amendment Application No. A-04-19 hereby adopted, and Rezone Application No. R-04-62 denied, by the following vote:

Ayes :	Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Calhoun
Absent :	None

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**ADJOURNMENT**

There being no further business to bring before the Council, the hour of 6:24 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

**APPROVED** on the \_\_\_\_8th\_\_\_\_day of March, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
Mike Dages, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk